

ORDINANCE NO. 2017-05

**AN ORDINANCE AMENDING THE RATES AND CHARGES FOR THE
USE OF AND SERVICES RENDERED BY THE SEWAGE WORKS
SYSTEM OF THE TOWN OF WHITESTOWN, INDIANA**

WHEREAS, the Town of Whitestown, Indiana (the “Town”) has established, acquired, and financed its sewage works pursuant to Indiana Code 36-9-23 et. seq., as amended, and other applicable provisions of Indiana law (collectively, the “Act”), for the purpose of providing for the collection, treatment and disposal of sewage in and outside the Town; and

WHEREAS, the current schedule of rates and charges for the sewage works is set forth in Ordinance No. 2008-20, adopted by the Town Council of the Town (the “Council”) on December 9, 2008, as has been otherwise amended from time to time by various Ordinances, most recently Ordinance No. 2015-18 (collectively, the “Prior Ordinances”); and

WHEREAS, Reedy Financial Group, P.C., certified public accountants and financial advisors to the Town, has prepared a rate report concerning the appropriate rates and charges for the various classes of users of the sewage works (the “Report”); and

WHEREAS, utilities are entitled to a return upon their investment, the extent to which a municipally owned utility should earn a fair return on its investment is a matter of public policy in the discretion of the Town, and the Town elects to earn a fair return as otherwise set forth in the Report and herein; and

WHEREAS, the Report proposes certain modifications to the Town’s current schedule of rates and charges, and the Town Council of the Town (the “Council”) finds that the proposed modifications to the Town’s existing rates and charges should be enacted; and

WHEREAS, the Council finds that the rates and charges set forth herein are required to maintain the sewage works in the sound physical and financial condition necessary to render adequate and efficient service, and will enable the Town to meet its legal revenue requirements for the sewage works; and

WHEREAS, the Council has caused notice of a public hearing on the rates and charges set forth herein to be duly advertised, posted and mailed, and has held a public hearing thereon, all pursuant to the Act; and

WHEREAS, the existing rates and charges as set forth in the Prior Ordinances will remain in full force and effect unless otherwise superseded by the rates and charges set forth herein.

NOW THEREFORE, be it ordained by the Town Council of the Town of Whitestown, Indiana that:

Section 1. The rates and charges as set forth in the Prior Ordinances (the “Prior Rates and Charges”) are hereby amended and restated in their entirety as set forth in Exhibit A, attached

hereto and incorporated herein by reference (collectively, the “Amended Rates and Charges”), and the Amended Rates and Charges are hereby adopted. Although this Ordinance does not adjust many of the Prior Rates and Charges, the attached Exhibit A restates all of the Town’s rates and charges for sewer service for ease of reference. The Amended Rates and Charges shall replace and supersede the Prior Rates and Charges, to the extent different, wherever referred to in the Prior Ordinances.¹

Section 2. For purposes of application of the Amended Rates and Charges, there is hereby established the “Existing Connection Area” and the “New Extraterritorial Connection Area” for the Town. The Existing Connection Area is depicted in Exhibit B, attached hereto and incorporated herein by reference, and generally includes all current connections to the sewage works as well as all property within the current municipal boundaries of the Town. All property subsequently added to the Town’s municipal boundaries shall be added to the Existing Connection Area at the time its addition to the Town’s municipal boundaries becomes effective. All areas or connections not included in the Existing Connection Area shall pay the Amended Rates and Charges applicable to the New Extraterritorial Connection Area. Where different in the Amended Rates and Charges, the rate or charge differential between the Existing Connection Area and the New Extraterritorial Connection Area is fourteen percent (14%).

Section 3. The Reitz Properties LLC Subsequent Connector Fees, set forth in Section 7 and Schedule D of the Prior Ordinances, have expired and are therefore repealed.

Section 4. Aside from the Prior Rates and Charges that are amended with the Amended Rates and Charges as set forth in this Ordinance and the attached Exhibit A, all other provisions of the Prior Ordinances shall remain in full force and effect.

Section 5. All parts of ordinances in conflict herewith are hereby superseded.

Section 6. The provisions, rates, and charges of this Ordinance are severable. In the event any one or more of the provisions contained in this Ordinance should be invalid or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein, and/or the prior ordinances of the Town, shall not in any way be affected or impaired and shall remain in full force and effect. Furthermore, to the extent a rate or charge in this Ordinance is declared invalid, the higher of a valid charge or the original charge or fee previously established by the Town shall be effective and/or retroactive as though unaltered herein.

Section 7. This Ordinance shall be in full force and effect from and after its passage, provided that the adjusted rates and charges shall go into effect for all bills rendered after April 1, 2017.

¹ To the extent a rate or charge set forth in Exhibit A is the same as the Prior Rates and Charges for an applicable user, this Ordinance does not amend such Prior Rates and Charges.

Passed and adopted by the Town Council of the Town of Whitestown, Indiana on this _____ day of _____, 2017.

TOWN OF WHITESTOWN, INDIANA
TOWN COUNCIL

Eric Miller, President

Susan Austin, Vice President

Kevin Russell

Clinton Bohm

Jeffrey Wishek

ATTEST:

Matt Sumner, Clerk-Treasurer
Town of Whitestown, Indiana

3116078

EXHIBIT A

Rates and Charges for the Town of Whitestown's Sanitary Sewer System

Section 1. Applicability

This Schedule applies to all sewer service rendered by the Town in the Whitestown Sanitary Sewer Service System.

Section 2. Meter Reading

Metered accounts will be billed monthly. All meters should be read monthly, where available and practical. Customers will be billed on the basis of actual consumption for the total reading period, less the estimated consumption billed in the first or prior month.

Section 3. Sewer Rates and Charges

There shall be and there is hereby established for the use of and the service rendered within the Whitestown Sewer System, the following schedule of rates and charges.

A. Base Charge for Metered Users

Each metered user shall pay a minimum monthly service charge according to the following schedule:

<u>Metered User Category</u>	<u>Base Charge</u>	
	<u>Existing Connection Area</u>	<u>New Extraterritorial Connection Area*</u>
5/8" – 3/4" Meter	\$ 37.04	\$42.23
1" Meter	116.32	132.60
1-1/2" Meter	331.17	377.53
2" Meter	463.05	527.88
3" Meter	581.59	663.01
4" Meter	697.66	795.33
6" Meter	926.10	1,055.75
8" Meter	1,163.18	1,326.03

* The difference between the New Extraterritorial Connection Area and the Existing Connection Area is 14%.

B. Additional Commodity Charge for Metered Users

In addition to the minimum service charge set forth in Paragraph A, all metered users shall pay a commodity charge based upon the user's actual monthly usage, for every incremental One Thousand (1,000) gallons of monthly consumption, as follows:

	Existing Connection Area	New Extraterritorial Connection Area*
Commodity charge per incremental 1,000 gallons	\$5.02	\$5.72

By way of example, a user within the Existing Connection Area using between 4,001 and 5,000 gallons of monthly consumption will pay an additional commodity charge in the amount of \$25.10.

C. Summer Sprinkling Relief

In order that domestic and residential Customers of sewage service shall not be penalized for sprinkling lawns during the months of April through October, the billing for sewage service for residences or domestic Customers for said months of April through October, shall be based on the average water usage for the previous months of December, January and February. In the event the average water usage for said previous months of December, January and February is greater than the water usage for any of the months of April through October, then the billing for sewage service shall be computed on the actual water used in the month for which the sewage service bill is rendered. Domestic or residential sewage service, as applicable to the sprinkling rate, shall apply to each lot, parcel of real estate, or building which is occupied and used as a residence. Said sprinkling rate shall not apply to any premises which are partially or wholly used for industrial or commercial purposes. In the event a portion of such premises shall be used for commercial or industrial purposes, the owner shall have the privilege of separating the water service so that the residential portion of the premises is served through a separate meter, and in such case, the water usage as registered by the water meter serving such portion of the premises used for residential purpose would qualify under the sprinkling rate.

D. Monthly Rates for Non-Metered Users

All non-metered users shall pay monthly rates based upon the total estimated equivalent flows of that user. Each Existing Connection Area user shall pay \$64.19 per month for each Equivalent Dwelling Unit ("EDU") of anticipated wastewater flow, and each New Extraterritorial Area user shall pay \$73.18 per month for each EDU of anticipated wastewater flow.* For example, an Existing Connection Area user who produces an estimated three (3) EDU's of wastewater shall incur a monthly consumption charge of \$192.57. Single-family dwellings shall pay a monthly user rate based upon an anticipated

* The difference between the New Extraterritorial Connection Area and the Existing Connection Area is 14%.

wastewater flow of one (1) EDU. In no event shall any single connection be judged to use less than one (1) EDU.

The estimated flow for all users other than single-family dwellings shall be calculated in accordance with 327 IAC 3-6-11 and equated to EDUs by dividing the estimated daily flow by 310 g.p.d. If there is no appropriate estimated flow factors listed in 327 IAC 3-6-11(b), then the Town shall determine the estimated flows based upon good engineering judgment and reasonable information. The estimated flows include domestic type wasteload estimates only and do not include processed water used in industrial or commercial operations. The Town shall have the right to reevaluate wasteloads at any time and take corrective action to assess for actual usage levels.

E. Excessive Strength Sewage Surcharge

In order that the rates and charges may be justly and equitably adjusted to the service rendered to Customers, the Town shall base its charges not only on the volume, but also on strength and character of the stronger-than-normal domestic sewage and wastes for which it is required to treat and dispose. The Town shall require the Customer, at the Customer's expense, to determine the strength and content of all sewage and wastes discharged, either directly or indirectly, into the sanitary sewage system, in such manner, by such method, and at such times as the Town may deem practicable in light of the conditions and attending circumstances of the case, in order to determine the proper charge. The Customer shall furnish a central sampling point available to the Town at all times. Nothing herein shall be interpreted to require the Town to accept excessive strength sewage.

1. Normal sewage waste strength should not have biochemical oxygen demand in excess of 240 milligrams per liter of fluid; suspended solids in excess of 250 milligrams per liter of fluid; ammonia in excess of 30 milligrams per liter of fluid; phosphorus in excess of 4 milligrams per liter of fluid; and fats, wax, grease, or oils, collectively, whether emulsified or not, in excess of 100 milligrams per liter of fluid. Additional charges for treating stronger-than-normal sewage shall be made on the following basis:

(a) Rate Surcharge Based Upon Suspended Solids

There shall be an additional charge of 50 cents per pound of suspended solids for suspended solids received in excess of 250 milligrams per liter of fluid.

(b) Rate Surcharge Based Upon BOD

There shall be an additional charge of 50 cents per pound of biochemical oxygen demand for BOD received in excess of 240 milligrams per liter of fluid.

(c) **Rate Surcharge Based Upon Ammonia**

There shall be an additional charge of 60 cents per pound of ammonia for ammonia received in excess of 30 milligrams per liter of fluid.

(d) **Rate Surcharge Based Upon Phosphorus**

There shall be an additional charge \$1.50 per pound of phosphorus received in excess of 4 milligrams per liter fluid.

(e) **Rate Surcharge Based Upon Oils and Grease**

There shall be an additional charge of 25 cents per pound of fats, wax, grease, or oils, collectively, whether emulsified or not, received in excess of 100 milligrams per liter of fluid.

2. The determination of suspended solids, biochemical oxygen demand, ammonia, phosphorus, and fats, wax, grease, or oils, whether emulsified or not, contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Elimination of Water, Sewage and Industrial Wastes," as written by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation, and in accordance with "Guidelines Establishing Test Procedures for Analysis of Pollutants," 40 CFR Part 136, as hereinafter amended, supplemented, or replaced.

F. Septic Hauling Fee

The Public Works Director and/or his/her designee may, in his/her sole discretion, accept treatable domestic strength septic sewage at locations designated by the Public Works Director. The treatment rate for such domestic strength septic sewage accepted by the Town shall be \$0.10 per gallon.

G. Indianapolis Sewer Rate Tracker

For so long as the Town shall contract with the Consolidated City of Indianapolis, Indiana ("Indianapolis") for wholesale treatment and disposal services in connection with the Town's sewage works system, the Town shall be entitled to recover or refund through its rates and charges increases or decreases, respectively, in costs associated with a change in the costs to the Town for the wholesale services provided by Indianapolis through a sewer rate tracker. If Indianapolis adjusts the rates and charges for sewer service to the Town, the Town may, in its sole discretion, elect to adjust the commodity charge set forth herein, either upward or downward to reflect the change in cost of sewer service. The Town shall maintain on file cost justification reflecting such changes in costs and the allocation of such costs to the commodity charge. Any change in the commodity charge under Section 3G pursuant to this provision shall be implemented upon approval of the Town Council of the Town without the need for an additional public hearing.

Section 4. Tap and Capacity Fees

A. Tap Fee

1. The tap fee reflects the costs associated with connecting or tapping each Customer to the Town's system. Where a single Customer shall make multiple connections, an appropriate multiple of the single tap fee shall be charged.
2. A single tap fee for each Customer connecting to any portion of the system shall be \$750, exclusive of excavation, for the installation of a 5/8 or 3/4 inch residential meter service. All other services shall be installed at the Town's actual cost, but not less than \$750.

B. Capacity Fee

1. The capacity fee reflects the cost of the capacity in the Town's treatment plant and transmission lines which must be permanently allocated to real estate producing wastewater and connecting to the system.
2. A capacity fee for each equivalent dwelling unit ("EDU") or single residential unit connecting to the system shall be \$4,000.
3. The capacity fees will be determined on the basis of total number of EDUs with a residential unit considered one (1) EDU. All other parcels of land not used for residential dwelling units shall be converted to EDUs on the basis of the anticipated sewage from such real estate as compared to the anticipated sewage for residential dwelling units. Residential units have been determined by the Town to produce 310 gallons of wastewater per day. For no reason shall any waste-producing structure connecting to the System (including, but not limited to, mobile homes, apartments, and condominiums) be treated as less than one (1) EDU for purposes of any of the Town's rates and charges. When calculations of EDUs result in a fraction, the result shall be rounded up to the next whole number. For example, an EDU calculation of 3.3 for a property will be rounded up to 4 EDUs for purposes of calculating the capacity fee for such property.
4. Capacity fees may, at the Town's discretion, be excluded for parcels zoned agricultural or platted for use as cemeteries, golf courses, or parks or other non-wastewater producing real estate.

C. Miscellaneous

1. The Town shall not allow final and permanent connection or connections to the Town's sewage facilities of any real estate producing wastewater

until a permit is obtained and payment has been made to the Town for the appropriate tap and capacity fees.

2. Any developer of real estate applying for service shall pay the applicable fees by platted sections before the sections are submitted for approval and recording or otherwise enter into an acceptable developer's agreement which shall provide for the future payment of the tap and capacity fees prior to final and permanent connection.
3. Tap and capacity fees shall be non-refundable.

Section 5. Non-Recurring Charges and Service Charges

A. Establishing an account and installing a meter:

5/8 or 3/4" meter:	\$ 25.00 plus actual meter costs
1" meter:	\$ 25.00 plus actual meter costs
1-1/2" meter:	\$ 25.00 plus actual meter costs
2" meter:	\$ 25.00 plus actual meter costs
3" meter:	\$ 25.00 plus actual meter costs
4" meter:	\$ 25.00 plus actual meter costs
6" meter:	\$ 25.00 plus actual meter costs
8" meter	\$ 25.00 plus actual meter costs

Visit to the premises regarding past due account (left on):	\$25.00
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Penalty charge for tampering with a meter or any of the Town's regulating or measuring equipment, or for access and use of the Town's sewage works without a meter:	\$175.00
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Service call (including special meter reading and other service calls)	\$75.00 per hour
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- B.** Subsequent test of meter at Customer's request to the Town within 36 months of the First Test:
- Actual Cost of Test (including time & materials)

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| C. | Charge, in addition to cost of excavation, for reconnection of service after disconnection of the same Customer: | \$100.00 per Equivalent Dwelling Unit |
| D. | Reprocessing of Customer account due to check not being honored (matter shall also be referred for prosecution to prosecuting attorney of county within 90 days):
Greater of \$27.50 or 5% of | amount due, but not more than \$250 |
| E. | Aggregate billing for Customer with multiple accounts: | \$10.00 monthly |
| F. | Special reading of meter at Customer's request (only billed if original meter reading was accurate): | \$66.00 |
| G. | Subsequent test of meter at Customer's request within 36 months of previous test (all meters): | Actual Cost |
| H. | Repair or replacement of damaged meter (all meters): | Actual Cost |

Section 6. Inspection Fees

Inspection fee for a lateral to be connected to the System from the point of connection to the structure (per trip):	\$50.00 (residential) \$100.00 (non-residential)
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Section 7. Collection and Payment Policies, Charges and Disconnection

A. Late Payment Charges

Bills for sewer service will be rendered monthly. Bills which remain unpaid for a period of more than seventeen (17) days following the mailing of the bill by the utility shall be delinquent, and a late payment charge in the amount of ten percent (10%) shall be added to the bill and owed by the Customer.

B. Over Payment

Over payments by the Customer will be applied to the Customer's account as a credit towards future rates, charges, and fees, until such credits are fully depleted. Upon termination of the Customer's account, any credits remaining after satisfaction of all applicable rates, charges, and fees shall be refunded to the Customer.

C. Partial Payment

In the event that the Customer tenders only partial payment or any amount less than the total amount of all rates, charges, and fees outstanding, payments from the Customer shall be applied in the following manner:

1. First, payments shall be applied against any and all fees and other non-recurring charges (i.e., late payment charges, capacity fees, subsequent connector fees, reconnection fees, etc.), in a manner and order solely within the Town's discretion, until all such fees and charges are fully satisfied.
2. Second, payments remaining after full satisfaction of rates, charges, and fees due and owing under Paragraph 1 shall be applied to that portion of the Customer's account owed for rates and charges from water services (i.e., monthly water rates, etc.).
3. Third, payments remaining after full satisfaction of rates, charges, and fees due and owing under Paragraphs 1 and 2 shall be applied to the remaining portion of the Customer's account owed for rates and charges from sewer services (i.e., monthly sewer rates, etc.).

In the event of a dispute as to the classification of a fee, rate, charge, or otherwise under this subsection, all determinations by the Town as to the ultimate allocation of specific payments shall be final.

D. Collection Policies

The Town reserves the right at all times, notwithstanding any waiver, whether express or implied, to pursue any and all available actions it deems necessary, as permitted by law, to collect outstanding or delinquent rates, fees, and charges, including, but not limited to, filing legal actions in a court of competent jurisdiction and/or filing liens against the Customer's property, and recover its costs, including, but not limited to, its attorneys' fees.

E. Disconnection of Service

The Town reserves the right to disconnect a Customer for nonpayment of service to the Customer's property. However, water service may not be discontinued to a Customer until the charges have been due and unpaid for at least thirty (30) days. Prior to discontinuance of service, the Town shall provide the Customer, by mail,

with at least ten (10) days prior written notice of its determination to discontinue service if the unpaid charges are not paid before a date specified in the notice.

Section 8. Customer Deposits

Customers of the sewage works who have had their sewage works service disconnected and reconnected three (3) times or more within a three (3) year period shall be required to pay a deposit to the Town in an amount equal to the estimated average payment due from the property served by the sewage works for a three (3) month period (as determined by the Town). The deposit shall be obtained to ensure payment of sewer fees and may be applied to delinquent sewer fees of the Customer at any time by the Town. If all or a portion of the deposit is applied to delinquent sewer fees, the Customer shall be required to replenish the required deposit amount within thirty (30) days of prior written notice of the Town to do so. If a Customer fails to fully replenish such deposit, the Town reserves the right to disconnect service to the Customer in accordance with Section 7E.

Any Customer deposits received shall be maintained by the Town in a separate fund. Deposits held by the Town or not applied to delinquent fees for twelve (12) months or more will accrue interest at a non-compounding rate of 2% per annum. The deposit, less any outstanding penalties and service fees, shall be refunded to the Customer after a notarized statement from the Customer that as of a date certain the property being served (a) has been conveyed to another person; or (b) no longer uses or is connected with any part of the sewage system. A statement under (a) above must include the name and address of the person to whom the property is conveyed or transferred. If a Customer fails to satisfy costs and fees within sixty (60) days after the termination of his/her use or ownership of the property served, the Customer forfeits the deposit and all accrued interest and the forfeited amount shall be applied to the outstanding fees. Any other matters concerning deposits hereunder shall be governed by Indiana Code § 36-9-23-28.

EXHIBIT B

